



2026:AHC-LKO:22055

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 3000083 of 1998

State of U.P.

.....Petitioner(s)

Versus

Jagjeep Singh And Others

.....Respondent(s)

Counsel for Petitioner(s)	: C.S.C.
Counsel for Respondent(s)	: C.S.C., Mandeep Kumar Mishra, Vijay Kumar Pandey

Court No. - 4

HON'BLE IRSHAD ALI, J.

1. Heard Sri Rajiv Srivastava, learned Additional CSc for the petitioner - State and Sri Mandeep Kumar Mishra, learned counsel for respondent Nos.1 & 2.
2. The affidavit filed by learned Additional CSC today in Court may be taken on record.
3. By means of present writ petition the petitioner is challenging the order dated 07.05.1997 passed by the appellate court - Additional Commissioner contained as Annexure-1 to the writ petition as well as to restore the judgment and order dated 16.04.1991 passed by the prescribed authority contained as Annexure-2 to the writ petition.
4. Factual matrix of the case is that the land in dispute was declared surplus under Ceiling Act, 1960 vide order dated 31.10.1963 and 13.12.1964. The order was passed by the prescribed authority on 02.01.1974. An appeal was filed against the said order in exercise of power under Section 10(2), which was dismissed by the District Judge vide order dated 05.10.1974. Sri Jay Singh filed an objection in the year 1985 under Section 11(2) U.P. Imposition of Ceiling on Land Holdings Act 1960 and that was rejected on 27.10.1985 against which Jay Singh preferred an appeal before the District Judge, Kheri which was allowed and the matter was remanded to the prescribed authority vide order dated 01.08.1995. The prescribed authority again rejected the objection filed by

the objector Jay Singh holding that he has never possession over the land in dispute and vide order dated 16.04.1991 rejected the claim set up by Jay Singh. Jay Singh filed an appeal against the order dated 16.04.1991 before the Additional Commissioner Lucknow who vide order dated 07.05.1997 allowed the appeal holding that the nephew - respondent Nos.1 & 2 are the legal heirs.

5. Submission of learned Additional CSC for the petitioner - State is that respondent Nos.1 & 2 are not the legal heirs of Jay Singh, therefore, the application allowed by the appellate court holding that they are the legal heirs is wholly erroneous in nature and is liable to be rejected.

6. He next submitted that the appellate order is based on that Jay Singh was in unauthorized occupation of the land, therefore, on the basis of adverse possession, it is held that he is tenure holder of the land in dispute. This finding is erroneous in nature and is not sustainable in law.

7. He lastly submitted that the impugned order dated 07.05.1997 is per se illegal and is liable to be set aside. In support of his submissions, he placed reliance upon a judgment in the case of **State of U.P. Vs. Addl. Commissioner Administration Lko. and others; 2024 (42) LCD 2004.**

8. On the other hand, learned counsel for respondent Nos.1 & 2 submitted that respondent Nos.1 & 2 are the legal heirs being nephew of Sri Jay Singh on the basis of adoption deed. He submitted that the order of appellate court dated 07.05.1997 suffers from no infirmity or illegality. On the basis of adverse possession of Sri Jay Singh the land was clubbed in holding of Jay Singh, therefore, the order does not suffer from any infirmity or illegality and is just and valid.

9. I have considered the submissions advanced by learned counsel for the parties and perused the material on record as well as law report cited by learned Additional CSC.

10. To resolve the controversy involved in the matter, relevant portion of the judgment is being quoted below:

"14. While assailing the validity of the impugned appellate order, Sri S. K. Khare, the learned Standing Counsel for the petitioner – State of U. P., has submitted that after

dismissal of the suits filed under Section 229-B of the the U.P.Z.A.L.R.Act filed by the claimants, the appeals filed by them were allowed without any contest by the tenure holder, which indicates that the tenure holder had colluded with the claimants. He has further submitted that the Appellate Authority had no jurisdiction to recall / review the earlier order dated 23.05.1998.

16. Before proceeding to decide the controversy, it will be appropriate to have a look at the provision contained in Section 5(6) of the U. P. Imposition of Ceiling on Land Holdings Act, which is being reproduced below: - “(6) In determining the ceiling area applicable to a tenureholder, any transfer of land made after the twenty-fourth day of Jan., 1971, which but for the transfer would have been declared surplus land under this Act, shall be ignored and not taken into account; Provided that nothing in this sub-section shall apply to— (a) a transfer in favour of any person (including Government) referred to in sub-sec. (2). (b) a transfer proved to the satisfaction of the prescribed authority to be in good faith and for adequate consideration and under an irrevocable instrument not being a benami transaction or for the immediate or deferred benefit of the tenure holders or other members of his family. Explanation I— For the purposes of this sub-section the expression ‘transfer of land made after the twenty-fourth day of Jan. 1971’ includes— (a) a declaration of a person as a cotenure holder made after the twenty-fourth day of Jan., 1971 in a suit or proceeding irrespective of whether such suit or proceeding was pending on or was instituted after the twenty-fourth day of January, 1971; Page No.5 of 8 (b) any admission, acknowledgment, relinquishment or declaration in favour of a person to the like effect made in any other deed or instrument or in any other manner. Explanation II— The burden of proving that a case falls within Cl. (b) of the proviso shall rest with the party claiming its benefit.”

18. The declaration of the claimant’s title by the appellate orders dated 01.08.1975, 20.12.1973 and 24.03.1975 on the basis of the impliedly admitted plea of adverse possession would certainly fall within the expression “transfer of land made after the twenty-fourth day of Jan. 1971” on the basis of an admission, acknowledgment, relinquishment or declaration in favour of a person to the like effect made in any other manner occurring in Explanation I appended to Section 5(6) of the Ceiling Act and, therefore, this will be a transfer of land made after the twenty-fourth day of Jan., 1971, which is liable to be ignored and not taken into account while determining the surplus land of the tenure holder.

20. In view of the aforesaid discussion, I am of the considered view that the Prescribed Authority had rightly held that the claimants had colluded with the tenure holders and for this reason, the tenure holder Murlidhar Hakim did not contest the appeals and the appellate Court allowed the appeals and declared the Seerdars of the land in question. The order passed by the Additional Commissioner was not an order on the merits of the case and keeping in view the aforesaid facts and circumstances of the case, it did not bar the jurisdiction of the Ceiling Authorities to proceed under the Ceiling Act in accordance with the law.

24. The order dated 23.05.1998 passed by the Additional Commissioner (Administration), Lucknow Division, Lucknow allowing Appeal No. 287/291/92-93 and setting aside the order dated 24.02.1993 passed by the Prescribed Authority, is unsustainable in law and is liable to be quashed."

11. On bare perusal of material on record, there is no material to establish that adoption deed was executed in favour of respondent Nos.1 & 2. The only material in the counter affidavit has come to the extent that respondent Nos.1 & 2 being nephew of Jay Singh are the legal heirs.

12. Nephew does not come under the ambit of legal heir, therefore, the finding recorded by the appellate court in this regard that being nephew respondent Nos.1 & 2 are legal heirs, is misconceived and devoid of merit. The entire order of appellate court dated 07.05.1997 was passed on the substitution of legal heirs of respondent Nos.1 & 2.

13. Learned counsel for respondent Nos.1 & 2 could not produce any adoption deed which was in favour of respondent Nos.1 & 2, therefore, the order impugned is per se illegal and is liable to be quashed.

14. The other question which is considerable is on the point that on the basis of adverse possession Jay Singh became title holder of the land in dispute is wholly erroneous in nature. There is no relevant record holding Jay Singh tenure holder or title holder of the land in dispute. His name was not recorded in the revenue record, therefore, he cannot claim that he is tenure holder on the basis of adverse possession.

15. The law report supplied by learned Additional CSC is fully applicable

to the case in hand and the impugned order passed by the appellate authority under Section 13(1) Ceiling Act allowing the appeal of private respondent who claimed rights on the land in question on the basis of adverse possession held to be not sustainable and has been quashed.

16. In the present case also the the basis of claiming possession over the land in dispute is case of adverse possession. On the basis of adverse possession no title has been recorded in the revenue record of Jay Singh, therefore, legal heirs substituted cannot claim their right on the said basis.

17. In view of reasons recorded above, the impugned order dated 07.05.1997 is here set aside.

18. The writ petition succeeds and is allowed.

19. However, the matter is remanded back to the appellate authority to reconsider the matter that whether respondent Nos.1 & 2 are legal heirs or not after issuing notice to actual legal heirs - Prithvi Singh and Vanita Singh and to pass appropriate reasoned and speaking order after affording appropriate opportunity of hearing to the parties, if possible, within a period of six months from the date of production of a certified copy of this order.

(Irshad Ali,J.)

March 30, 2026

Adarsh K Singh